
Public Safety Committee

2SSB 5755

Brief Description: Addressing and mitigating the impacts of property crimes in Washington state.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Hill, Ranker, Dammeier, Braun, Keiser, Billig, Becker, Brown, Kohl-Welles, Chase, Conway, Darneille, Hasegawa, Fain, Habib, Hewitt, Pedersen, Jayapal and McAuliffe).

Brief Summary of Second Substitute Bill

- Creates a new felony property offense sentencing grid with reduced standard ranges.
- Imposes 12 months of community custody for a felony property offense when the offender has an offender score of two or more.
- Provides that the Department of Corrections (DOC) is not liable for tortious actions of a supervised offender unless reckless disregard of a known and immediate risk by the DOC is proven and limits the DOC's liability to its degree of fault.
- Requires the Sentencing Guidelines Commission (SGC), in conjunction with the Caseload Forecast Council, to monitor and report to the Governor and the Legislature on the effectiveness of this act in reducing property crimes in Washington and prepare a racial and ethnic impact analyses.
- Creates a law enforcement grant program and a pretrial grant program administered by the Department of Commerce.
- Provides a sunset review and termination of the SGC's new duties and the sentencing provisions for property crimes.

Hearing Date: 3/24/15

Staff: Cassie Jones (786-7303) and Yvonne Walker (786-7841).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Felony Sentencing.

A sentence imposed for a felony crime depends on the severity, or seriousness level of the offense and the defendant's offender score. Felony crimes are separated into 16 different seriousness levels. The offender score may vary from zero to nine plus points depending on five factors: (1) the number of prior criminal convictions or juvenile dispositions; (2) the relationship between any prior offense and the current offense of conviction; (3) the presence of other current convictions; (4) the offender's community custody status at the time the crime was committed; and (5) the length of the offender's crime-free behavior between offenses.

The standard sentence range for any offense that is not a drug offense is established by referring to the standard sentencing grid. For each current offense, the intersection of the column defined by the offender score and the row defined by the offense seriousness level determines the standard sentence range. Below is the current sentencing grid for seriousness levels one through four.

Serious Level	Offender Score									
	0	1	2	3	4	5	6	7	8	9 or more
4	3-9 months	6-12 months	12+-14 months	13-17 months	15-20 months	22-29 months	33-43 months	43-57 months	53-70 months	63-84 months
3	1-3 months	3-8 months	4-12 months	9-12 months	12+-16 months	17-22 months	22-29 months	33-43 months	43-57 months	51-68 months
2	0-90 days	2-6 months	3-9 months	4-12 months	12+-14 months	14-18 months	17-22 months	22-29 months	33-43 months	43-57 months
1	0-60 days	0-90 days	2-5 months	2-6 months	3-8 months	4-12 months	12+-14 months	14-18 months	17-22 months	22-29 months

Offenders convicted of the following categories of offenses may also receive a term of community custody as part of their sentence:

- sex offenses;
- violent offenses;
- crimes against persons;
- certain drug-related offenses;
- felony violation of Failure to Register as a Sex Offender;
- serious violent offenses; and
- Unlawful Possession of a Firearm where the offender is a criminal street gang member/ associate.

State Tort Liability.

The State of Washington waived its sovereign immunity in 1961; therefore, the state is liable for damages arising out its tortious conduct to the same extent as if it were a private person or corporation. The Washington State Supreme Court has held that the state has a duty to take reasonable precautions to protect against reasonably foreseeable dangers posed by offenders released from confinement and subject to community supervision by the Department of Corrections (DOC). Therefore, a plaintiff who has incurred damages as a result of the actions of a supervised offender may sue the DOC for its negligent supervision of the offender. When a

plaintiff who was determined to have no share of the fault prevails on a claim of negligent supervision, the DOC is liable for 100 percent of the damages regardless of its degree of fault.

Sentencing Guidelines Commission.

The Sentencing Guidelines Commission (SGC) was created by the Legislature in 1981 as part of the Sentencing Reform Act. The SGC served as an independent body statutorily required to evaluate and monitor adult and juvenile sentencing policies and practices and make recommendations to the Governor and the Legislature, served as a clearinghouse and information center on adult and juvenile sentencing, and conducted ongoing research on sentencing and related issues.

The SGC consists of 20 voting members, 16 of whom are appointed by the Governor. The members include four superior court judges, two defense attorneys, two prosecutors, four citizens, the chief of a local law enforcement agency, one county elected official, one city elected official, and one administrator of juvenile court services. There are four ex-officio voting members: the Secretary of the DOC, the Director of the Office of Financial Management (OFM), the chair of the Indeterminate Sentence Review Board (ISRB), and the Director for the Juvenile Rehabilitation Administration. Four legislators are appointed by the leadership of the House of Representatives and the Senate and serve as nonvoting members. The SGC was authorized to appoint research staff to accomplish the duties of the SGC and add a full-time executive director whose salary was fixed by the Governor.

In 2011 (pursuant to Engrossed Substitute Senate Bill 5891) the SGC was reorganized and became an advisory agency, located within the OFM. The position of the executive director was eliminated. The Caseload Forecast Council (CFC) became: (1) the clearinghouse and information center for adult and juvenile sentencing; (2) responsible for annually producing a statistical summary of adult felony sentencing and juvenile dispositions; and (3) responsible for publishing and maintaining the adult felony sentencing manual. The DOC assumed full responsibility for administering the interstate compact for adult offender supervision in the state.

Sunset Review.

The Sunset Act requires the Joint Legislative Audit and Review Committee to conduct a sunset review of a program or agency and provide a report with recommendations regarding whether the program should be retained, modified, or allowed to terminate.

Summary of Bill:

Felony Sentencing.

Most felony property offenses with a seriousness level of four and below are removed from the current seriousness level classifications and assigned a new seriousness level. One additional property crime, Taking a Motor Vehicle without Permission I, is removed from the current seriousness level V classification and is also reassigned a new seriousness level.

A new sentencing grid is created with new, reduced standard ranges for those reclassified felony property offenses.

Below is the new sentencing grid:

Serious Level	Offender Score									
	0	1	2	3	4	5	6	7	8	9 or more
4	15-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-24 months	24-30 months	30-36.5 months	36.5-42 months
3	10-90 days	15-180 days	20-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-24 months	24-30 months
2	0-90 days	10-120 days	15-180 days	20-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-20 months
1	0-60 days	0-90 days	10-120 days	20-180 days	30-240 days	30-300 days	30-300 days	12+-14 months	12+-16 months	14-18 months

The following felony property offenses were omitted from the newly created sentencing grid: Residential Burglary, Theft of Ammonia, and Theft of a Firearm. Therefore, sentencing for these offenses remains the same. Sentencing remains the same for all other felony offenses.

Offenders convicted of a property offense, who have an offender score of two or more will also receive 12 months of community custody as part of their sentence.

State Tort Liability.

The DOC is not liable for tortious actions of a supervised offender unless reckless disregard of a known and immediate risk by the DOC is proven. In any case, the DOC is liable only for its degree of fault.

Sentencing Guidelines Commission.

The chair of the ISRB and two (of the four) superior court judges are removed from the SGC. One additional chief law enforcement officer is added to the SGC, as a voting member, as well as the Director of the CFC as an ex-officio nonvoting member.

The SGC is co-located with the CFC. Subject to funds appropriated specifically for this purpose, the SGC must, in conjunction with the CFC, monitor and report to the Governor and the Legislature on the effectiveness of this act in reducing property crimes in Washington and prepare racial and ethnic impact statement.

Grants.

Law Enforcement Grant. The Department of Commerce (COM) must establish a law enforcement grant program. Local law enforcement agencies must submit proposals to the COM that address property crime. The COM must use an advisory committee to evaluate grant applications and monitor the effectiveness of the grant projects. Preference must be given to grant applicants that can demonstrate a commitment to regional, multi-jurisdictional strategies, and that can clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations, and government agencies to address property crime.

Pretrial Grant. The COM must establish a pretrial grant program. The COM must identify at least one county to receive a grant that will test the impact of providing defendants with earlier access to pretrial defense counsel on pretrial outcomes and county budgets.

Each of the grants listed above are one-time grants but may be renewed.

Sunset Review.

A sunset review and termination of the SGC's new duties and the sentencing provisions for property crimes is scheduled for June 30, 2021, and 2022, respectively.

The act is null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2015. The new sentences imposed apply to crimes committed on or after July 1, 2015. However, the bill is null and void unless funded in the budget.